



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,639	03/17/2004	Tetsuo Kawano	Q80515	1688

23373 7590 02/28/2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

NGUYEN, CAM N

ART UNIT	PAPER NUMBER
----------	--------------

1754

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/801,639

Applicant(s)

KAWANO ET AL.

Examiner

Cam N. Nguyen

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on December 29, 2005 (an election).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 8-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>originally filed</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-7, in the reply filed on December 29, 2005 is acknowledged.
2. Claims 8-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 29, 2005.

Claim Objections

3. Claims 1 & 3-7 are objected to because of the following informalities:
 - A. In claims 1 & 6, "having mesopores with" is suggested changed to ---comprising mesopores having--.
 - B. In claim 3, line 2, "including" is suggested changed to --comprising---.
 - C. In claims 4, 5, & 7, line 2, --member-- should be inserted after "one".Appropriate correction is required.

Claim Rejections - 35 USC § 102(a)

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1754

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ying et al., "hereinafter Ying", (US Pat. 6,028,025).

Ying discloses a catalyst comprising: an article having an inorganic surface, the surface including an oxide of a transition metal; and a porphyrin including a catalytic metal atom capable of catalyzing an oxidation reaction of a reactant and an oxidant provided to the catalytic metal atom, etc. (see col. 17, claim 1). The article is a porous inorganic article (see col. 17, claim 5). The article is a regular array of hexagonally-packed or cubic-packed inorganic material (see col. 17, claim 6). Ying further discloses that the article having an inorganic surface comprises a solid phase structure, etc. (see col. 17, claim 8). The solid phase structure includes pores having a mean diameter of at least about 5 Å (or at least 0.5 nm) (see col. 18, claim 18). The surface is a regular array of hexagonally-packed or cubic-packed silica or alumina including Ta or Nb as a dopant present in the structure in an amount of no more than about 25 mol.% (see col. 18, claim 19).

There is no patentable distinction seen between the claimed porous ceramic material and that disclosed by Ying, thus the claims are anticipated by the teaching of the reference.

Claim Rejections - 35 USC § 102(e)

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1754

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-5 & 7 are rejected under 35 U.S.C. 102(e) as being anticipated by McGrath et al., "hereinafter McGrath", (US Pat. 6,638,885).

McGrath discloses a mesoporous ceramic fiber having a pore size diameter in the range of about 10-100 nanometers (see col. 16, claim 1). The ceramic precursor is a salt or alkoxide of titanium (see col. 16, claim 4).

There is no patentable distinction seen between the claimed porous ceramic material and that disclosed by McGrath, thus the claims are anticipated by the teaching of the reference.

Citations

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form prepared attached. All references are cited for related art.

Conclusion

9. Claims 1-18 are pending. Claims 1-7 are rejected. Claims 8-18 are withdrawn due to nonelected (distinct) inventions. No claims are allowed.

Art Unit: 1754

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M, W, R, & F, 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen/cnn
February 23, 2006




CAM N. NGUYEN
PRIMARY EXAMINER

Art Unit: 1754